IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 12713 of 2005

Between:

Toddy Tappers Cooperative Society Veeralapally Village,

Ramagundam Mandal, Karimnagar distrit, rep by President

B. Raju Mallu

..... PETITIONER

AND

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1 The Commissioner of Prohibition & Excise, Nampally, Hyderabad
2 The District Collector Prohibition & Excise, Karimnagar District
3 The Prohibition & Excise Superintendent, Karimnagar district

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or Direction, more particularly one in the nature of Writ of Mandamus declaring the inaction of the 2nd respondent without deciding the disputed issue of area of operation of Toddy Tappers Cooperative Society, Veeralapalli Village (Petitioner's Society) in Sy.No.490 and area of operation of Toddy Tappers cooperative Society, Venkataraopalli Village in Sy.No.500 by issuing the proceedings vide R.C.No.1637/2002/P&Ex/B2-2, dt.31--5-2005 directed the petitioner herein to evict from the existing shop and select alternative premises on the ground of report of the singareni management as illegal, improper and void consequently by setting aside the proceedings vide Cr.No.1637/2002/P&Ex/B2-2, dt.31--5-2005 and directed petitioner shall continue in the same premises for carrying on business.

Counsel for the Petitioner: SMT.A.PADMA

Counsel for the Respondents: GP For Prohibition & Excise

The Court made the following :

ORDER:

The petitioner initially filed W.P.No.23162 of 2004 seeking invalidation of the order passed by the first respondent directing the petitioner to shift Toddy shop from Sy.No.490. While disposing of the writ petition by order dated 15.12.2004 this Court gave liberty to respondents 1 and 2 herein to follow due process of law and take appropriate action in relation to shifting of the petitioner's shop from the existing location. In pursuance thereof, the third respondent summoned the President of the petitioner-society and the President of TCS, Venkatraopally. The third respondent also obtained a report from the Mandal Revenue Officer, Khanapur. After considering the evidence produced by the petitioner TCS, and another TCS, as well as the communications addressed by the Chairman and Managing Director of the

Singareni Collieries and also noticing the fact that there is a dispute as to the ownership of the land in Sy.No.490 between M/s. Singareni Collieries and others, directed relocation of Toddy shop No.2 of Venkatraopalli TCS and Toddy shop of the Petitioner-society. Aggrieved by the proceedings dated 31.5.2005 issued by the third respondent in the name of the second respondent, the present writ petition is filed.

Inter alia it is contended by the learned counsel for the petitioner that the third respondent exceeded the scope of enquiry when he decided that the land in Sy.No.490 belongs to Singareni Collieries, and that there were repeated cases of workers attending duty in intoxication. The questions raised are being the questions of fact, they cannot be decided in this writ petition. If so advised, the petitioner may avail remedy of appeal before the Deputy Commissioner of Prohibition & Excise having jurisdiction of the matter, within a period of two weeks from the date of receipt of a copy of this order.

The learned counsel for the petitioner requests this Court to order status quo. As this Court is not prima facie satisfied with the case of the petitioner, such an order cannot be passed, especially when the writ petition is being dismissed on the ground of availability of alternative remedy. Accordingly, the Writ Petition is dismissed giving liberty to the petitioner to avail alternative remedy before the appellate authority. No costs.

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V.V.S. RAO, J.

11th July, 2005

Note: CC in 2 days

B/o

Js.

To

1 The Commissioner of Prohibition & Excise, Nampally, Hyderabad
2 The District Collector Prohibition & Excise, Karimnagar District
3 The Prohibition & Excise Superintendent, Karimnagar district

4 Two CCs to G.P. for Prohibition & Excise, High Court Buildings,

Hyderabad.

5 2 CD copies.